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Paper No. 39

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AUG 16 2006

OFFICE OF PETITIONS

In re Application of	:	
John F. Wironen et al.	:	
Application No. 08/816,079	:	DECISION ON PETITIONS
Filed: March 13, 1997	:	UNDER 37 C.F.R. §§1.137(b)
Attorney Docket Number: TB-101	:	AND 1.182
Title: BONE PASTE	:	

This is a decision on the petition pursuant to 37 C.F.R. §1.182 to change the power of attorney by less than all applicants or owners, and the renewed petition pursuant to 37 C.F.R. §1.137(b)¹, to revive the above-identified application. Both petitions were filed concurrently on June 22, 2006.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR §1.113 in a timely manner to the final Office action mailed December 21, 2001, which set a shortened statutory period for reply of three (3) months. On June 21, 2002, Petitioner submitted an improper Continued Prosecution Application (CPA). On July 29, 2002, Applicant's counsel "authorized the abandonment of the subject application²."

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

2 Petition, page 2.

The petition under 37 C.F.R. §1.137(b):

The original petition under this section of the C.F.R. was dismissed via the mailing of a decision on December 22, 2005, for failure to meet the first and third requirements of the Rule. With the present petition, Petitioner has corrected these deficiencies, provided an explanation of the delay, and submitted a four-month extension of time to make timely this response.

As such, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of continuing Application No. 11/152,548.

The petition under 37 C.F.R. §1.182:

Petitioner has submitted the petition fee, as well as a good and sufficient reason as to why such papers should be accepted. However, Petitioner has failed to reveal the percentage of the interest of The University of Florida Research Foundation, Inc. As set forth on the second page of the decision on the original petition under 37 C.F.R. §1.137(b):

Petitioner has failed to establish a right to take action, pursuant to 37 C.F.R. §3.73(c)(2), in that a review of the assignment records indicates that there are a plurality of assignees who each have rights to this application. Petitioner has merely set forth that The University of Florida Research Foundation, Inc. is a part owner. The percentage of the interest has not been revealed.

As such, the petition under 37 C.F.R. §1.182 is **DISMISSED**.

The Office will continue to conduct correspondence with the attorneys first named in the application, Timothy Van Dyke and Joseph Fischer, of the law firm of Beusse Brownlee Wolter Mora & Maire, at the correspondence address of record noted above, who will also be responsible for coordinating replies or submissions to this Office. See, Manual of Patent Examining Procedure ("MPEP") 402.10.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225³. All other inquiries

³ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

concerning examination procedures or status of the application should be directed to the Technology Center.

A handwritten signature in black ink, appearing to read "Paul Shanowski". The signature is fluid and cursive, with a large initial "P" and "S".

Paul Shanowski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office